

## REMARKS

This Response is submitted in response to the Office Action dated June 14, 2005. The Office Action rejects Claims 16 to 19, 25 to 39 and 41 to 46 under 35 U.S.C. §103(a) as obvious over U.S. Patent No. 5,433,960 to Meyers (“*Meyers*”) and Claim 40 under 35 U.S.C. §103(a) as obvious over *Meyers* in view of U.S. Patent No. 5,948,430 to Zerbe (“*Zerbe*”). Applicants respectfully submit that the rejections are not proper for at least the reasons set forth below.

The Office Action states that the claimed invention is obvious in view of *Meyers*. *Meyers* teaches edible film compositions and methods of making the compositions. These compositions relate to films adhered directly to support structures, such as a chewing gum, and the Office Action states that the claimed invention is obvious in light of these films. Applicants respectfully disagree.

According to the Office Action, the present invention as claimed may include the films of *Meyers*. In particular, the Office Action states that, because the application’s claims utilize the term “comprising,” additional ingredients—particularly structural support ingredients—may be included. However, if structural support ingredients were included in the claimed products, “stand alone films”—as required by the claims—would not be produced. The phrase “stand alone” is clearly set forth in the patent’s specification, where it is described as meaning a lack of structural support. See specification, p. 8, lines 26-31. As such, the claimed “stand alone films” element is not met if structural support ingredients are included as additional components of the products. Therefore, the Office Action’s statement that structural support ingredients can be assumed by the claims is incorrect as a matter of fact.

Further, the Office Action’s assertion that the term “stand alone” is not significant is, it is respectfully submitted, not correct. The present application clearly teaches the claimed stand alone films as related to the field of breath freshening lozenges, mints and films. These films—as is well known in the art—are products in their own right. Applicants’ claims are directed toward these films, without structural support and as such the term “stand alone” is highly significant to understanding the claims. Regardless, the Patent Office must consider the claims as they stand and not dismiss claim elements as being insignificant. The art fails to produce a stand alone film, thus not meeting this claim element, as well as the remaining elements that refer to the stand alone film.

Moreover, clearly, one skilled in the art would not be led to use structural support ingredients in the stand alone films of the claimed invention. *Meyers* does not teach, disclose or suggest these stand alone films and in fact teaches away from them. This, in and of itself, demonstrates non-obviousness. Accordingly, Applicants respectfully request that the rejection of Claims 16 to 19, 25 to 39 and 41 to 46 be withdrawn.

Likewise, as Claim 40 contains the limitation "stand alone." Therefore, for at least the reasons stated above, it is not rendered obvious by *Meyers*, even in light of *Zerbe*. *Zerbe* does not remedy the deficiencies of *Meyers*, and does not teach, disclose or suggest the stand alone films of the claimed invention. As such, Applicants request that the rejection of Claim 40 also be withdrawn.

For the foregoing reasons, Applicants respectfully request reconsideration of the application and earnestly solicit an early allowance of same.

Respectfully submitted,

BELL, BOYD & LLOYD LLC

BY 

Robert M. Barrett  
Reg. No. 30,142  
Cust. No. 29156

Dated: September 9, 2005